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Apostolical RULES

FOR

Ecclesiastical Courts:

Taken out of the

Constitutions of the Apostles.

With some brief OBSERVATIONS.

Humbly Recommended to the Consideration of the present Ecclesiastical and Secular Judges; Civil, Canon, and Common Lawyers; of Jury-men, and of all that are any way concern'd in Judicial Proceedings in these Kingdoms.

By WILL. WHISTON, M. A.

Some time Professor of the Mathematicks in the University of CAMBRIDGE.

Then answered one of the Lawyers, and said unto Jesus, Master, thus saying, thou reproachest us also. And he said, Wo unto you also, ye Lawyers: for ye lade men with burdens grievous to be born, and ye your selves touch not the burdens with one of your fingers. — Wo unto you Lawyers: for ye have taken away the key of knowledge: ye entred not into [the kingdom of heaven] your selves; and them that were entring in, ye hindred Luc. xi. 45, 46, 52. Matt. xxiii 13.

L O N D O N:

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Apollitical Rules

FOR

Ecclesiastical Courts:

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With some brief Observations
 Humbly Recommended to the Consideration of the
 present Ecclesiastical and Secular Judges, Bishops,
 Canon, and Common Lawyers; of this realm
 and of all times and very convenient in several
 Proceedings in these Kingdoms.

By WILL. WHISTON, M.A.

Some time Professor of the Arabic Language in the
 University of Cambridge.

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Apostolical Constitutions.

BOOK II.

CHAP. XXI.



BE gentle, [O Bishop,] gracious, mild, without Guile, without Falshood, not rigid, not insolent, not severe, not arrogant, not unmerciful, not puffed up, not a Man-pleaser, not timorous, not double-minded, not one that insults over the People that are under thee, not one that conceals the Divine Laws, and the Promises to Repentance, not hasty in thrusting out, and expelling; but steady. Not one that delights in severity, not heady. Do not admit less Evidence to convict any one than that of three * Witnesses, and those of known and establish'd Reputation. Enquire whether they do not accuse out of Ill-will, or Envy; for there are many that delight in Mischief, forward in Discourse, slanderous, Haters of the Brethren, making it their Business to scatter the Sheep of Christ; whose

* That is, of two Witnesses, besides the Accuser; as will appear presently.

Affirmation if thou admittest without nice scanning the same, thou wilt disperse thy Flock, and betray it to be devour'd by Wolves, that is, by Dæmons, and wicked Men, or rather not Men, but wild Beasts in the Shape of Men; by the Heathen, by the *Jews*, and by the impious Hereticks. For those destroying Wolves soon address themselves to any one that is cast out of the Church, and esteem him as a Lamb deliver'd for them to devour, reckoning his Destruction their own Gain. For he that is *their^b Father, the Devil, is a Murderer*. He also who is separated unjustly by thy want of Care in Judging, will be overwhelm'd with Sorrow, and be disconsolate, and so will either wander among the Heathen, or be intangled in Heresies, and so will be altogether estranged from the Church, and from Hope in God, and will be entangled in Wickedness, whereby thou wilt be guilty of his Perdition. For it is not fair to be too hasty in casting out an Offender, but slow in receiving him when he returns; to be forward in cutting off, but unmerciful when he is sorrowful, and ought to be healed. For of such as these speaks the Divine Scripture, *Their Feet run to Mischief, they are hasty to shed Blood: Destruction and Misery are in their ways, and the way of Peace have they not known; the Fear of God is not before their Eyes*. Now, the way of Peace is our Saviour Jesus Christ, who has taught us, saying, *Forgive, and ye shall be forgiven; give, and it shall be given to you*. That is, Give Remission of Sins, and your Offences shall be forgiven you. As also He instructed us by his Prayer, to say unto God, *Forgive us our Debts, as we forgive our Debtors*. If therefore you do not forgive Offenders, how can you expect the Remission of your own Sins? Do not you

^b John viii. 44.^c Psal. xiv. Rom. Psalt.^d Mark xi. 25. Luke vi. 38.^e Matth. vi. 12.

rather bind your selves faster, by pretending in your Prayers to forgive, when you really do not forgive? Will you not be confronted with your own Words, when you say you forgive, and do not forgive? For know ye, that he who casts out one who has not behaved himself wickedly, or who will not receive him that returns, is a Murderer of his Brother, and sheds his Blood, as *Cain* did that of his Brother *Abel*; and his Blood cries to God, and will be requir'd. For a righteous Man unjustly slain by any one, will be in Rest with God for ever. The same is the Case of him who, without Cause, is separated by his Bishop. He who has cast him out as a pestilent Fellow, when he was innocent, is more furious than a Murderer. Such an one has no regard to the Mercy of God, nor is mindful of his Goodness to those that are penitent; nor keeps in his Eye the Examples of those, who having been once great Offenders, receiv'd Forgiveness upon their Repentance. Upon which Account he who casts off an innocent Person, is more cruel than he that murders the Body. In like manner, he who does not receive the Penitent, scatters the Flock of Christ; being really against him. For as God is just in judging of Sinners, so is He merciful in receiving them when they return. For *David*, the Man after God's own Heart, in his Hymns ascribes both *Mercy* and *Judgment* to Him.

C H A P. XXXVII.

'TIS the Duty of the Bishop to judge rightly. As it is written, ^h Judge righteous Judgment. And elsewhere, ⁱ Why do ye not even of your selves judge what is right? Be ye therefore as skilful Dealers

^g Gen. iv. 10. ^{*Psal.} c. 1. ^h John vii. 24. ⁱ 1 Cor. vi. 5.

in Money : For as these reject bad Money, but take to themselves what is current ; in the same manner 'tis the Bishop's Duty to retain the Unblameable, but either to heal, or, if they be past Cure, to cast off those that are Blame-worthy, so as not to be hasty in cutting off, nor to believe all Accusations ; for it sometimes happens that some, either thro' Passion, or Envy, do insist on a false Accusation against a Brother : as did the two Elders in the Case of ^c *Susanna* in *Babylon*, ^d and the *Egyptian* Woman in the Case of *Joseph*. Do thou therefore, as a Man of God, not rashly receive such Accusations, lest thou take away the Innocent, and slay the Righteous : For he that will receive such Accusations is the Author of Anger rather than of Peace. But where there is Anger, there the Lord is not. For that Anger, which is the Friend of Satan, I mean that which is excited unjustly by the means of False Brethren, never suffers Unanimity to be in the Church. Wherefore when you know such Persons to be foolish, quarrelsome, passionate, and such as delight in Mischief, do not give Credit to them, but observe such as they are, when you hear any thing from them against their Brother ; for Murder is nothing in their Eyes, and they cast a Man down in such a way as one would not suspect. Do thou therefore consider diligently the Accuser, wisely observing his Conversation, what, and of what sort it is ; and in case thou findest him a Man of Veracity, do according to the Doctrine of our Lord, ^e and taking him who is Accused, rebuke him, that he may repent, when no body is by. But if he be not perswaded, take with thee one or two more, and so shew him his Fault, and admonish him with Mildness and Instruction : ^f *For Wisdom will rest upon an heart that is good, but is not understood in the heart of the Foolish.*

^c Dan. xiii^d Gen. xxxix.^e Mat. xviii. 15.^f Prov. xiv. 33.

C H A P. XXXVIII.

IF therefore he be perswaded by the Mouth of you Three, 'tis well. But if any one hardens himself, *Tell it to the Church: But if he neglects to hear the Church, let him be to thee as an Heathen Man and a Publican*; and receive him no longer into the Church as a Christian, but reject him as an Heathen. But if he be willing to repent, receive him. For the Church does not receive an Heathen or a Publican to Communion, before they every one repent of their former Wickednesses. For our Lord Jesus, the Christ of God, has appointed Place for the Acceptance of Men upon their Repentance.

C H A P. XLII.

BUT if the slanderous Accusation be false, and you that are the Pastors, with the Deacons, admit of that Falshood for Truth, either by Acceptance of Persons, or receiving of Bribes, as willing to do that which will be pleasing to the Devil; and so you thrust out him that is Accused, but is clear of the Crime, you shall give an Account in the Day of the Lord. For it is written, *The Innocent and the Righteous thou shalt not slay; thou shalt not take Gifts to smite the Soul: For Gifts blind the eyes of the wise, and destroy the words of the Righteous.* And again, *They that justify the Wicked for Gifts, and take away the Righteousness of the Righteous from him.* Take care therefore lest by any means ye become Acceptors of Persons, and thereby fall under this

† Matt. xviii. 17. h Exod. xxiii. 7, 8. Deut. xxvii. 25.
xvi. 19. i Isa. v. 23.

Voice of the Lord. Be careful therefore not to condemn any Persons unjustly, and so to assist the Wicked. For, ^k *Wo to him that calls evil good, and good evil; bitter sweet, and sweet bitter; that puts light for darkness, and darkness for light.* For if you condemn others unjustly, you pass Sentence against your selves. For the Lord says, ^l *With what judgment ye judge, ye shall be judged; and as you condemn, you shall be condemned.* If therefore ye judge without Respect of Persons, ye will discover that Accuser, who bears false witness against his Neighbour, and will prove him to be a Sycophant, a spiteful Person, and a Murderer, causing Perplexity by accusing the Man as if he were wicked, inconsistent in his Words, contradicting himself in what he affirms, and entangled with the Words of his own Mouth. For his own Lips are a dangerous Snare to him. Whom, when thou hast convicted him of speaking falsely, thou shalt judge severely, and shalt deliver him to the fiery Sword, and thou shalt do to him as he wickedly proposed to do to his Brother. ^m For as much as in him lay he slew his Brother, by forestalling the Ears of the Judge. Now it is written, ⁿ *that He that sheddeth Man's Blood, for that his own Blood shall be shed.* And, ^o *Thou shalt take away that innocent Blood, which was shed without Cause from thee.*

C H A P. XLIII.

THOU shalt therefore cast him out of the Congregation as a Murderer of his Brother. Some time afterwards, if he says that he repents, mortify him

^k Isa. v. 20. ^l Matt. vii. 2. Luk. vi. 37. ^m Deut. xix. 19.

ⁿ Gen. ix. 6. ^o Deut. xix. 13.

with Fastings, and afterwards ye shall lay your Hands upon him, and receive him: But still securing him, that he does not disturb any body a second time. But if, when he is admitted again, he be alike troublesome and will not cease to disturb and to quarrel with his Brother, spying faults out of a contentious Spirit, cast him out as a pernicious Person, that he may not lay waste the Church of God.

C H A P. XLV.

TIS a brave *Encomium* for a Christian to have no Contest with any one. ^d But if by any Management or Temptation a Contest arises with any one, let him endeavour that it may be compos'd, though thereby he be oblig'd to lose somewhat; and let it not come before an Heathen Tribunal. Nay indeed, you are not to permit that the Rulers of this World should pass Sentence against our People: For by them the Devil contrives Mischiefs to the Servants of God, and occasions a Reproach to be cast upon us, as though we had not *one wise Man that is able to judge between his Brethren*, or to decide their Controversies.

C H A P. XLVI.

LET not the Heathen therefore know of your Differences among one another, nor do you receive Unbelievers as Witnesses against your selves, nor be judged by them; nor owe them any thing on ac-

count of Tribute or Fear ; but, *Render to Caesar the things that are Caesar's, and unto God the things that are God's*, as Tribute, Taxes, or Poll Money ; as our Lord ^r by giving a Piece of Money was freed from Disturbance. Chuse therefore rather to suffer Harm, and to endeavour after those things that make for Peace, not only among the Brethren, but also among the Unbelievers. For by suffering Loss in the Affairs of this Life thou wilt be sure not to suffer in the Concerns of Piety, and wilt live religiously, and according to the Command of Christ. But if Brethren have Law-Suits one with another, which God forbid, you who are the Rulers ought thence to learn that such as these do not do the Work of the Lord, but rather of publick Enemies; and one of the Parties will be found to be mild, gentle, and the Child of Light; but the other unmerciful, insolent, and covetous. He therefore who is condemn'd, let him be punish'd, let him be separated, let him undergo the Penalty of his Hatred to his Brother. Afterward, when he repents, let him be received, and so when they have learn'd Prudence, they will ease your Judicatures. 'Tis also a Duty to forgive each other's Trespases; not the Duty of those that Judge, but of those that have Quarrels. As the Lord determin'd when Peter ask'd him, *How oft shall my Brother sin against me, and I forgive him? Till Seven times?* He reply'd, *I say not unto thee, Untill Seven times, but until seventy times seven.* For so would our Lord have us to be truly his Disciples, and never to have any thing against any body ; as for Instance, Anger without measure, Passion without Mercy, Covetousness without Justice, Hatred without Reconciliation. Draw by your Instruction those who are angry to Friendship ; and those who are at Variance

9 Matth. xxii. 21.

5 xvii. 24, &c. 8 xviii. 21.

to Agreement. For the Lord says, *“Blessed are the Peacemakers for they shall be called the Children of God.”*

C H A P. XLVII.

LET your Judicatures be held on the second Day of the Week, that if any Controversie arise about your Sentence, having an Interval till the Sabbath, you may be able to set the Controversie right, and to reduce those to Peace who have the Contests one with another against the Lord's Day. Let also the Deacons and Presbyters be present at your Judicatures, to judge without Acceptance of Persons, as Men of God, with Righteousness. When therefore both the Parties are come, ^u according as the Law says, those that have the Controversie shall stand severally in the middle of the Court; and when you have heard them, give your Votes holily, endeavouring to make them both Friends before the Sentence of the Bishop, that Judgment against the Offender may not go abroad into the World; knowing that he has in the Court the Christ of God, as conscious of, and confirming his Judgment. But if any Persons are accus'd by any one, and their Fame suffers, as if they did not walk uprightly in the Lord; in like manner you shall hear both Parties, the Accuser and Accused; but not with Prejudice, nor with hearkening to one Party only, but with Righteousness, as passing a Sentence concerning eternal Life, or Death. For, says God, ^w *He shall prosecute that which is right justly.* For he that is justly punish'd and separated by

^z Matth. v. 9.

^u Deut. xix. 17.

^w xvi. 20.

you, is rejected from Eternal Life and Glory; he becomes dishonourable among holy Men, and one condemn'd of God.

C H A P. XLVIII.

DO not pass the same Sentence for every Sin, but one suitable to each Crime, distinguishing all the several sorts of Offences with much Prudence, the great from the little. Treat a wicked Action after one manner, and a wicked Word after another, a bare Intention still otherwise. So also in the case of a Contumely or Suspicion: And some thou shalt curb by Threatnings alone, some thou shalt punish with Fines to the Poor, some thou shalt mortifie with Fastings, and others thou shalt separate according to the Greatness of their several Crimes. For the Law did not allot the same Punishment to every Offence, but had a different Regard to a Sin against God, against the Priest, against the Temple, or against the Sacrifice; from a Sin against the King, or Ruler, or a Soldier, or a Fellow-Subject: and so were the Offences different which were against a Servant, a Possession, or a Brute Creature. And again, Sins were differently rated according as they were against Parents and Kinsmen: and those differently which were done on purpose, from those that happen'd involuntarily. Accordingly the Punishments were different; as Death, either by Crucifixion or by Stoning; Fines, Scourgings, or the suffering the same Mischiefs they had done to others. Wherefore do you also allot different Penalties to different Offences, lest any Injustice should happen, and provoke God to Indignation. For of what unjust Judgment soever you are the Instruments, of
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the same you shall receive the Reward from God. ^a For with what judgment ye judge, ye shall be judged.

C H A P. XLIX.

WHEN therefore you are set down at your Tribunal, and the *Parties* are both of them present, (for we will not call them *Brethren* until they receive each other in Peace) examine diligently concerning those who appear before you, and first concerning the Accuser, whether this be the first Person he has accused, or whether he has advanced Accusations against some others before, and whether this Contest and Accusation of theirs does not arise from some Quarrel, and what sort of Conversation the Accuser is of. Yet though he be of a good Conscience, do not give Credit to him alone; for that is contrary to the Law. But let him have others to join in his Testimony, and those of the same course of Life. As the Law says, ^a *At the Mouth of two or three Witnesses every thing shall be established.* But why did we say, that the Conversation of the Witnesses was to be enquir'd after, of what Sort it is? Because it frequently happens that two and more testify for Mischief, and with joint Consent prefer a Lye; ^b as did the two Elders against *Susanna* in *Babylon*; and the Sons of Transgressors against ^a *Naboth* in *Samaria*; and the Multitude of the *Jews* against our ^d Lord at *Jerusalem*, and against ^e *Stephen*, his first Martyr. Let the Witnesses therefore be meek, free from Anger, full of Equity, kind, prudent, continent, free from Wickedness, faith-

^a Matth. vii. 2.^a Deut. xix. 15.^b Dan. xiii.^c 3 King. 21.^d Matth. xxvi.^e Acts vi, & vii.

ful, religious: For the Testimony of such Persons is firm on account of their Character, and true on account of their Conversation. But as to those of a different Character, do not ye receive their Testimony, although they seem to agree together in their Evidence against the Accused. For 'tis ordain'd in the Law, * *Thou shalt not be with a Multitude for Wickedness. Thou shalt not receive a vain Report. Thou shalt not consent with a Multitude to pervert Judgment.* You ought also particularly to know him that is Accused, what he is in his course of Life, and in his Conversation, whether he have a good Report as to his Life, whether he has been unblameable, whether he has been zealous in Holiness, whether he be a Lover of the Widows, a Lover of the Strangers, a Lover of the Poor, and a Lover of the Brethren; whether he be not given to filthy Lucre; whether he be not an extravagant Person, or a Spendthrift; whether he be sober, and free from Luxury, or a Drunkard, or a Glutton; whether he be compassionate and charitable.

C H A P. L.

FOR if he has been before addicted to wicked Works, the Accusations which are now brought against him, will thence, in some Measure, appear to be true, unless Justice do plainly plead for him. For it may be that though he had formerly been an Offender, yet that he may not be guilty of this Crime, of which he is accused. Wherefore be exactly cautious about such Circumstances, and so render your Sentences, when pronounc'd against the Offender convicted, safe, and firm. And if after his Separation he begs Par-

* Exod. xxiii. 21.

don, and falls down before the Bishop, and acknowledges his Fault, receive him. But neither do you suffer a false Accuser to go unpunish'd, that he may not calumniate another who lives well, or encourage some other Person to do like him. Nor, to be sure, do ye suffer a Person convicted to go off clear, lest another be ensnar'd in the same Crimes. For neither shall a Witness of Mischiefs be unpunish'd, nor shall an Offender be without Censure.

C H A P. LI.

WE said before, that Judgment ought not to be given upon hearing only one of the Parties. For if you hear one of them when the other is not there, and so cannot make his Defence to the Accusation brought against him, and rashly give your Votes for Condemnation, you will be found guilty of that Man's Destruction, and Partaker with the false Accuser before God, the just Judge. For, *As he that boldeth the Tail of a Dog, so is he that presides at unjust Judgment.* But if ye become imitators of the Elders in *Babylon*, who when they had born Witness against *Susanna*, unjustly condemn'd her to Death, you will become obnoxious to their Judgment and Condemnation. For the Lord, by *Daniel*, deliver'd *Susanna* from the Hand of the Ungodly, but condemn'd to the Fire those Elders who were guilty of her Blood; and reproaches you by him, saying, *Are ye so foolish, ye Children of Israel? Without Examination, and without knowing the Truth, ye have condemned a Daughter of Israel. Return again to the Place of Judgment; for these Men have born False-witness against her.*

^a Prov. xxvi. 17.

^b Dan. xiii. 48.

C H A P. LII.

CONsider even the Judicatures of this World, by whose Power we see Murderers, Adulterers, Wizzards, Robbers of Sepulchres, and Thieves, brought to Tryal; and those that preside, when they have receiv'd their Accusations from those that brought them, ask the Malefactor whether those things be so? And tho' he does not deny the Crimes, they do not presently send him out to Punishment, but for several Days they make Enquiry about him, with a full Council, and with the Veil interpos'd: And he that is to pass the final Decree and Suffrage of Death against him, lifts up his Hands to the Sun, and solemnly affirms that he is innocent of the Blood of the Man. Though they be Heathens, and know not the Deity, nor the Vengeance which will fall upon Men from God, on account of those that are unjustly condemn'd, they avoid such unjust Judgments.

C H A P. LIII.

BUT you who know who our God is, and what are his Judgments, how can you bear to pass an unjust Judgment, since your Sentence will be immediately known to God? And if you have judged righteously, you will be deem'd worthy of the Recompences of Righteousness, both now and hereafter; but if unrighteously, you will partake of the like. We therefore advise you, Brethren, rather to deserve Commendation from God than Rebukes: For the Commendation of God is Eternal Life to Men, as is his Rebuke Everlasting Death. Be ye therefore righteous Judges, Peace-makers, and without Anger. For,
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^a *He that is angry without a Cause, is obnoxious to the Judgment.* But if it happens that by any one's Contrivance you are angry at any body, ^b *Let not the Sun go down upon your Wrath.* For, says David, ^c *Be angry and sin not:* That is, be soon reconcil'd, lest your Wrath continue so long, that it turn to a settled Hatred, and work Sin. ^d *For the Souls of those that bear a settled Hatred are to Death,* says Solomon. But our Lord and Saviour Jesus Christ says in the Gospels, ^e *If thou bring thy Gift to the Altar, and there remembrest that thy Brother hath ought against thee, leave there thy Gift before the Altar, and go thy way; first be reconcil'd to thy Brother, and then come and offer thy Gift.* Now the Gift is every one's Eucharistical Prayer and Thanksgiving. If therefore thou hast any thing against thy Brother, or he has any thing against thee, neither will thy Prayers be heard, nor will thy Thanksgivings be accepted, by reason of that hidden Anger. But tis your Duty, Brethren, to pray continually. Yet because God hears not those which are at Enmity with their Brethren by unjust Quarrels, even though they should pray three times an Hour, 'tis our Duty to compose all our Enmity and Little-ness of Soul, that we may be able to pray with a pure and unpolluted Heart. For the Lord commanded us to love even our Enemies, and by no means to hate our Friends. And the Lawgiver says, ^f *Thou shalt not hate thy Brother in thy Mind. Thou shalt certainly reprove thy Brother, and not incur Sin on his Account.* ^g *Thou shalt not hate an Egyptian, for thou wast a Sojourner with him. Thou shalt not hate an Idumean, for he is thy Brother.* And David says, ^h *If I have repayed those that requited me Evil.* Wherefore, if thou wilt be a Christian, follow the Law of the Lord:

^a Matt. v. 22.^b Eph. iv. 26.^c Psal. iv. 4.^d Prov. xii. 28.^e Mat. v. 23.^f Levit. xix. 17.^g Deut. xxiii. 7.^h Psal. vii. 5.

ⁱ *Loose every Band of Wickedness*: For the Lord has given thee Authority to remit those Sins to thy Brother which he has committed against thee, as far as ^k *Seventy times Seven*, that is, Four Hundred and Ninety times. How oft therefore hast thou remitted to thy Brother, that thou art unwilling to do it now? When thou also hast heard *Jeremiah* saying, ¹ *Do not any of you impute the Wickedness of his Neighbour in your Hearts*. But thou remembrest Injuries, and keepest Enmity, and comest into Judgment, and art suspicious of his Anger, and thy Prayer is hindred. Nay, if thou hast remitted to thy Brother Four Hundred and Ninety times, do thou still multiply thy Acts of Gentleness more to do good for thy own Sake; although he does not do so, yet however do thou endeavour to forgive thy Brother for God's Sake, ^m *That thou mayest be the Son of thy Father which is in Heaven*; and when thou prayest may'st, be heard, as a Friend of God.

C H A P. LIV.

W Herefore, O Bishop, when you are to go to Prayer, after the Lessons, and the Psalmody, and the Instruction out of the Scriptures, let the Deacon stand nigh you, and with a loud Voice say, Let none have any Quarrel with another: Let none come in Hypocrisy; that if there be any Controversy found among any of you, they may be affected in Conscience, and may pray to God, and be reconcil'd to their Brethren. For if upon coming into any one's House we are to say, ⁿ *Peace be to this House*, like Sons of Peace bestowing Peace on those who are worthy, as

ⁱ Isa lviii. 6.^m Matt. v. 48.^k Matt. xviii. 22.ⁿ Matt. x. 12.¹ Zach. viii. 17.

it is written, ° *To them that are nigh, and them that are far off, whom the Lord knows to be his,* much more is it incumbent on those that enter into the Church of God before all things to pray for the Peace of God: But if he prays for it upon others, much more let himself be within the same, as a Child of Light; for he that has it not within himself, is not fit to bestow it upon others. Wherefore, before all Things, 'tis our Duty to be at Peace in our own Minds; for he that does not find any Disorder in himself, will not quarrel with another, but will be peaceable, friendly, gathering the Lord's People, and a Fellow-worker with him, in order to the increasing the Number of those that shall be saved in Unanimity. For those who contrive Enmities, and Strifes, and Conteſts, and Law-Suits, are wicked, and Aliens from God.

B O O K IV.

C H A P. VI.

NOW the Bishop ought to know whose Oblations he ought to receive, and whose he ought not: For he is to avoid corrupt Dealers, and not receive their Gifts. ° *For a corrupt Dealer shall not be justified from Sin.* For of them it was that *Isaiah* reproach'd *Israel*, and ° said, *Thy corrupt Dealers mingle Wine with Water.* He is also to avoid Fornicators, for, *Thou shalt not offer the Hire of an Harlot to the Lord.* He is also to avoid Extortioners, and those that covet other Mens Goods, and Adulterers; for the Sacrifices of such as these are abominable with God. Al-

° *Isa. lvii. 19. Eph. ii. 17. 2 Tim. ii. 19.*

° *Ecclus. xxvi. 29.*

° *Isa. i. 22.*

so those that oppress the Widow, and overbear the Orphan, and fill Prisons with the Innocent, and abuse their own Servants wickedly, I mean with Stripes and Hunger, and hard Service, nay, destroy whole Cities: Do thou, O Bishop, avoid such as these, and their odious Oblations. Thou shalt also refuse Rogues, AND THOSE PLEADERS THAT PLEAD ON THE SIDE OF INJUSTICE, and Idol-makers, and Thieves, and unjust Publicans, and those that deceive by false Balances and deceitful Measures, and a Soldier who is a false Accuser, and not content with his Wages, but does Violence to the Needy, a Murderer, a Cut-throat, and an unjust Judge, a Subverter of Causes, him that lies in wait for Men, a Worker of abominable Wickedness, a Drunkard, a Blasphemer, a Sodomite, an Usurer, and and every one that is wicked, and opposes the Will of God. For the Scripture says, that all such as these are abominable with God, &c.

N. B. After their 85 Canons, the Apostles add this Prediction and Prayer.

Let these Canonical Rules be established by us for you, O ye Bishops. And if you continue to observe them, you shall be saved, and shall have Peace: But if you be disobedient, you shall be punish'd, and have everlasting War one with another, and undergo a Penalty suitable to your Disobedience.

Now God, who is alone unbegotten, and the maker of the whole World, unite you all through his Peace, in the Holy Spirit; perfect you unto every good Work, immoveable, unblamable, and unreprouable; and vouchsafe to you eternal Life with us: Through the Mediation of his beloved Son, Jesus Christ, our God and Saviour. With whom Glory be to thee, the God over all, and the Father, in the Holy Spirit, the Comforter, now, and always, and for ever and ever. Amen.



OBSERVATIONS.

I. **W**E have here no tedious and voluminous Codes, or Digests, or Pandects, or Statute-Books, or Reports; as in our modern Courts of Judicature. But Christian Societies were to be guided by these few general but Apostolical *Rules* of Justice and Equity; and by 85 short particular, but Apostolical *Canons*. Yet by these few *Rules* and *Canons*, and by almost these only, were all Spiritual or Ecclesiastical Matters determined for three Centuries and an half; or during the entire Period of truly *Primitive Christianity*. Nor are all these *Rules* and *Canons* themselves, more than may be contain'd in one Sheet of Paper.

II. No General Councils, or lesser Synods, or Popes, or Emperors, no Ecclesiastical or Secular Powers, had here the least Authority to add, or diminish, or alter any of these Rules or Laws derived from Christ by his Apostles.

III. Here we have the Persons determin'd, who are to exercise Christian Discipline; viz. the Bishop, [Not a Lay Chancellor] as the principal Judge; with the Votes of the Priests and Deacons, and Consent of the Laity, in their weekly publick Assemblies for that Purpose.

IV. We have here no Summons to a Christian Man to appear, and under the Notion of *Heresy* to renounce what, upon the fullest Examination, and most satisfactory Evidence appear'd to him, not only to be

Parts,

Parts, but fundamental Parts of Christianity, *ob meram animæ suæ salutem*: Or, out of no other Regard than the Salvation of his Soul.

V. We have here no Injunction, that every trifling or profane Person, in every trifling or quarrelsome Cause, shall give in his Answer *upon Oath*: The most solemn and sacred Security which the best Men can give on the greatest Occasions. And though the Apostles do elsewhere not quite disallow the Lawfulness of an Oath in publick Courts of Justice; yet does it not appear, that they ever admitted them in their own Ecclesiastical Courts, at least very rarely, and upon the greatest Occasions; and never but when the Necessity of such a solemn Appeal to the supreme Being was unavoidable. *Constitut. II. 36. v. 12. vi. 23. vii. 3.*

VI. We have here no Oath given to a Witness to speak *The whole Truth*, as to a Person's Character, at the same time that he is not allow'd to give particular Instances proper to discover that Character. As if any Court could dispense with that solemn Oath which it had just before requir'd, and that to the Suppression of Truth in that very Point for which the same solemn Oath was requir'd.

VII. We have here no Temporal Penalty ensuing on Ecclesiastical Censures; nor have we any bare hypocritical *Reading* in the Church a Form of Penance ordain'd by the Court allow'd of, instead of real Signs of sincere Repentance, in order to Restoration to the Churches Peace.

VIII. We have here no other View pursued but that of discovering the real Truth of an Accusation: No Partial Pleaders hired to perplex Witnesses, disguise Facts, or conceal the Truth from either Judges or Jury: No Faction on one side to make the Accused Guilty; or on the other side to make him Innocent, whether he be so or not.

IX. None

IX. None could then screen themselves from Punishment by any thing like our Action of *Scandalum Magnatum*, where the *Truth* of the Imputation is not admitted to be enquired into. Nor was then any Accusation which could be legally prov'd to be *True*, ever allow'd to be esteem'd legally *Scandalous*.

X. We have here no pretended Rules for Courts of Justice, tending to subvert the Foundations of Justice: We meet with no *Refusal of Evidence*, because it is *in writing*, and not *viva voce*, where it is impossible to have it otherwise: Here is no Scruple rais'd against Evidence *viva voce*, because the Witness came into Court a little too late, or because a critical Moment of introducing it was slipp'd. Nor is any one that can assist in the Discovery of the Truth refused to be call'd, because he is likely to speak some Truth that will not be agreeable to the Pleader who is to call him.

XI. We have here no innocent Person damaged or non-suited for the involuntary Mistakes, or voluntary Negligence, or Treachery of his Attorney or Counsel. We have no Causes between the Accuser and Accused determined without the Presence and the Examination of both the Parties themselves: We have no Hastiness to get a Cause determined before the proper Witnesses can be present: Nor have we any dilatory Proceedings when they are ready, either to delay Justice, or to impoverish the Client, and enrich the Lawyer.

XII. Nay, we have not here any Admission of meer *Pleaders* at all. The *Accuser* and *Accused*, with the *Witnesses* are alone heard in every Cause. Much less have we any Permission of artful Misrepresentations, or false Colours to be put on the Facts on either side, in order to byass the Verdict. Nor have we any leave to make fine Speeches after the Witnesses have been heard; as it were to put what they testified out of the Mind of incautious Jurymen, or to divert them from a close Regard to their Testimonies. And indeed
this

this last customary Practice, comply'd with by even the best of the Practitioners of our Law, seems to me very like to that PLEADING ON THE SIDE OF INJUSTICE, which the Apostolical Rule above set down declares to be *perfectly inconsistent with Christianity*.

XIII. We have here no Expectation that twelve Jurymen should all agree in difficult Cases, and always conspire in the same Verdict: And this consistently with their Oaths, and with a good Conscience. Much less are there any Difficulties here laid upon them, if they really disagree. Yet do I not find that our Law has made any certain Provision for that deplorable Case; but that unless the Parties themselves relieve them, Jurymen must frequently be under this terrible Dilemma, either to be GUILTY OF PERJURY, or be STARVED TO DEATH. If this be still the Case with us Protestants, How can we reproach Popish Countries with their *Impositions upon Conscience*; or with the Barbarities of the Inquisition it self? Even those very Inquisitors not exercising, I think, so sudden, so *hasty* a Cruelty upon any of their pretended Hereticks, as this is; To be GUILTY OF PERJURY or STARVED TO DEATH immediately.

XIV. Lastly, We have here no such Niceties and Subtilties of Law, whereby the true end of all just Laws, the *Punishment of evil Doers, and the Praise of them that do well* may be perverted. No Allowance of double Entendres to defame the Innocent; nor Suppression of plain Truths, for fear of the Guilty. Nor do we meet with such Maxims, whereby, before otherwise righteous Judges, and honest Juries, a Foreign HEIDEGGER is permitted to flourish at Court, and a Foreign FACIO is forced to stand in the Pillory: whereby a Native, JOHN HENLEY escapes uncontroul'd, and a Native ROBERT HALES, is convicted of Forgery.

Feb. 3 1723.

Will. Whiston.



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